

HOUSE BILL 3488

By Ferguson

AN ACT to amend Tennessee Code Annotated, Title 56,  
relative to motor vehicle repair claims.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 8, Part 1, is amended by  
adding the following language as a new, appropriately designated section thereto:

56-8-1\_\_.

(a) As used in this section, unless the context otherwise requires:

(1) "Claimant" means an insured party or a third-party claimant;

(2) "Deceptive referral" means any trade practice by which an insurer  
attempts to persuade, convince, coerce, or intimidate a claimant into changing  
the claimant's choice of repair facility after the insurer has been informed that the  
claimant has selected a repair facility;

(3) "Free market rate" means the labor rate the general public pays,  
without the influence of the insurance industry, for repairs on similar motor  
vehicles in the same geographic area of this state; and

(4) "Request or require" means any act to influence a claimant's decision.

(b) An insurer shall inform a claimant upon initial notification of a claim that the  
claimant has the right to choose the repair facility of his or her choice to repair a  
damaged vehicle.

(c) An insurer or any of its representatives shall not request or require any  
insured or third-party claimant to use a specific person or business for the provision of  
automobile physical damage repairs, automobile physical damage appraisals,  
automobile glass replacement, automobile parts, or glass repair service.

(d) An insurer or any of its representatives shall not engage in deceptive referral practices which state or imply that a particular repair shop, facility, vendor, or supplier must be used for motor vehicle repair.

(e) An insurer or automobile physical damage appraiser shall not request or require that appraisals or repairs should or should not be made in a specified facility or repair shop. When a claimant has chosen a repair facility, any attempt to change or restrict the claimant's decision shall cease.

(f) After the effective date of this act:

(1) All appraisals shall include on the heading of the appraisal the following notice, printed in not less than ten (10) point, boldfaced type: "NOTICE: UNDER TENNESSEE LAW, THE CONSUMER AND/OR LESSEE HAS THE RIGHT TO CHOOSE THE REPAIR FACILITY TO MAKE REPAIRS TO THEIR MOTOR VEHICLE. NO ONE SHALL USE INTIMIDATION OR COERCIVE TACTICS TO ALTER THE CONSUMER'S CHOICE."; and

(2) Notice of a claimant's right to choose a repair facility shall appear on any evidence of proof of financial responsibility or security concerning any policy of insurance issued in the state. The notice shall read as follows: "UNDER TENNESSEE LAW, YOU HAVE THE RIGHT TO CHOOSE YOUR REPAIR FACILITY (CITATION TO THIS SECTION)".

(g)

(1) Any person who prepares an appraisal of the physical damage to a motor vehicle shall conduct a thorough physical visual inspection of the damaged vehicle.

(2) If the appraisal is not completed by a repair facility, the person writing the appraisal shall leave an estimate of the damages in a legible form with the repair facility where the vehicle is located.

(3) A person other than the appraiser that performed the original physical visual inspection of the damaged vehicle shall not alter or change an estimate of physical repair damage to a vehicle.

(4) The original appraiser shall not make changes to an estimate based on the recommendation of another party that has not performed a physical visual inspection of the damaged vehicle.

(h) The labor rate for the repair of motor vehicle damages paid by an insurer shall be based on the free market rate for such repairs. An insurer shall not limit or discount the amount that the insurer pays for the repair on the basis that the repair would have cost less if it had been made at a particular garage, repair shop, or other vendor, or in a particular location, specified by the insurer.

(i) All claims paid by an insurer for any loss on a motor vehicle or any claim for damages to a motor vehicle shall be paid to the claimant, or to a repair facility that has the signed authorization of the claimant, as soon as possible after notification of the claim, but not later than thirty (30) days from the date on which notice and proof of claim, in the substance and form required by the terms of the policy, are furnished the insurer. If an insurer fails to make a good-faith attempt to settle a claim within the time prescribed in this subsection(i), the value of the final settlement shall bear interest at the rate of twelve percent (12%) per annum from and after the expiration of the thirty-day period. If the delay was without reasonable foundation, the insured shall be entitled to be reimbursed for the insured's reasonable attorney's fees incurred, and no part of the fee

for representing the claimant in connection with this claim shall be charged against benefits otherwise due the claimant.

(j) In addition to the remedy in § 56-8-109 for a violation of this section, a violation of this section is also a Class B misdemeanor.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.